



For Immediate Release: Feb. 13, 2014  
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### **Ethics Commission determines some public relations work can be considered lobbying**

According to an opinion issued by the Miami-Dade Commission on Ethics and Public Trust today, a public relations firm is engaged in lobbying activities when it is hired by a client that has a foreseeable or pending interest in County business and sends positive news clippings about the client to elected officials and public employees intending to influence them. The question (**RQO 14-01**) came from Tadd Schwartz, the president of Schwartz Media Strategies, which sent favorable news stories about CH2M Hill while the firm was competing for a large contract with the Miami-Dade Water and Sewer Department, to the Mayor, Commissioners and County staff. The PR agency contends it was not lobbying because staff didn't prepare the material on behalf of clients, but collected and forwarded publicly published news stories and opinion pieces. Since the firm is compensated to create a positive image for its clients and targeted public officials in an attempt to influence their decision-making, the COE concluded that activity falls under the legal definition of lobbying in the County Code. Therefore, staff members engaged in such work would have register and follow the same rules as other lobbyists.

Probable Cause was found to a complaint (**C13-51**) filed against the former public works director for Miami Lakes for approving public business to a company that previously employed him. Hiram Siaba had worked for Ballarena Construction Group part-time as a project management coordinator from April to September of 2010, but failed to disclose that when he accepted the Miami Lakes position in January 2011. The Public Works director had the authority to assign projects under a certain dollar amount to approved vendors without going to bid. The investigation found that Siaba authorized at least ten projects to Ballarena and oversaw the process when Ballarena won a bid. In what's referred to as "the reverse two-year rule," the Conflict of Interest and Code of Ethics Ordinance prohibits officials to perform any contract-related duties with a contractor within two years of working for that entity. If he's found in violation of the Code, Siaba could be fined up to \$1,000 for the two counts against him.

Following a settlement agreed to last month with Homestead Mayor Jeff Porter over a campaign flyer used in November's election, the COE today issued a Letter of Instruction that reminds him and all candidates that their right to free speech does not permit them to disseminate political ads that intentionally distort facts. The complaint (**C 13-31**) stemmed from a brochure that falsely alleged that competing mayoral candidate Mark Bell and his wife, County Commissioner Lynda Bell, had received a "\$25,000 gift, courtesy of the taxpayers of Homestead." In fact, the grant was issued by the Homestead Community Redevelopment Agency to the historic Redland Hotel, an entity owned by Mr. Bell. The Letter states that such distortions create "an appearance of impropriety that shakes the public's trust in their elected officials."

While the Ethics Commissioners last month found No Probable Cause to a complaint (**C 13-35**) that employees in Miami Beach violated the Citizens' Bill of Rights by failing to respond to a public records request in a timely manner, they

approved a Letter of Instruction addressed to the City, suggesting it improve its procedures for handling public records requests. Michael Burke filed the complaint when he had not received the information he sought for longer than two months. However, his request referred to a non-existent address, didn't include a specific-date range and was sent by an email account that Burke admitted he doesn't use often. The Letter reminds public officials of their obligations and responsibilities under the Citizens' Bill of Rights to be helpful and responsive. It also advises citizens to be as specific as possible when requesting public records and provide accurate contact information to avoid unnecessary delays.

The Ethics Commission dismissed several complaints that were filed against various City of Miami officials for alleged violations of the Citizens' Bill of Rights (CBR) "Public Records" provision, which requires public records to "be open for inspection at reasonable times and places." The Ethics Commission was granted enforcement authority over violations of the CBR in 2012, but determined that guidelines and criteria have to be further established as to what constitutes a violation. They decided today that, because of the brief period of time the complainant gave officials to respond to his requests and that compliance was achieved after the complaints were filed, no violation of the CBR took place.

No Probable Cause was found to a complaint (**C 13-47**) accusing Victor de Yurre of improperly lobbying a Miami official. The investigation found that the respondent contacted Commissioner Mark Sarnoff and introduced him to registered lobbyists, but that de Yurre did not speak on behalf of a third party about any pending city issue.

The Ethics Commission approved a proposed resolution establishing an Honor Code for public officials and employees. Noting that a public servant's first obligation is to protect the public interest, the resolution states that those serving in that capacity are held to a higher level of ethical conduct than is acceptable in the private sector. Among its provisions, the Honor Code requires government employees and officials to report any criminal or grossly unethical conduct and places their duty to do so above loyalty to colleagues or supervisors. The resolution suggests that the Mayor and Board of County Commissioners consider adopting such a Code as official County policy.

*The Ethics Commission was created in 1996 as an independent agency with advisory and quasi-judicial powers. It is composed of five members, serving staggered terms of four years each. Through a program of education, outreach and enforcement, the Commission seeks to empower the community and bolster public trust.*

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**PUBLIC NOTICE:** The public hearing regarding **Complaint 12-32** (Crespo v. Carollo) will continue at 10 a.m. on Wednesday, March 5, 2014, in the Ethics Commission conference room. In November 2012, the COE found Probable Cause that Miami City Commissioner Frank Carollo exploited his official position by calling the Miami police chief after being pulled over for a traffic violation in Coconut Grove in August 2012. The investigation determined that, after being pulled over, Carollo called the chief, who subsequently called the area commander, who then told dispatchers to have the officer call him. The officer let Carollo go with a warning.